



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153065

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 26, 2013, at Racine, Wisconsin.

The issue for determination is whether the agency correctly denied FoodShare benefits for Petitioner for September 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner applied for FoodShare benefits on September 4, 2013. She reported that she was living with her daughter.

3. Petitioner's daughter is under age 22 and had an open FoodShare case at the time of Petitioner's FoodShare application. The agency treated Petitioner's application as a change report and included Petitioner in her daughter's household with an increase in FoodShare benefits to be effective October 1, 2013.
4. Before FoodShare benefits were issued on the daughter's FoodShare case for Petitioner, Petitioner reported leaving her daughter's home and moving in with her own mother and on October 4, 2013 again applied for FoodShare.
5. The agency opened a new FoodShare case for Petitioner effective October 4, 2013 and issued benefits for October 2013 forward for Petitioner.

DISCUSSION

The starting point for determining FoodShare (FS) eligibility is a determination of who is to be included in the food unit. *FoodShare Wisconsin Handbook (FSH)*, §3.3.1. Biological, adoptive and step parents and their children under the age of 22 must be included in the same household for FS purposes when they live together. *FSH*, §3.3.1.3. This is, in fact, mandated by Federal law:

Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) *A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s);*

...

7 *Code of Federal Regulations (CFR)*, §273.1(b)(1); *emphasis added*.

This requires that Petitioner and her daughter be part of the same household. And, as Petitioner's daughter already had an open case, Petitioner was added to the daughter's case. This was then a change in household composition and changes are effective in the month after the month of report. *FSH*, §6.1.3.3.

Petitioner was not, therefore, eligible for FoodShare in September 2013 either as her own household or as part of her daughter's household.

At the hearing Petitioner also indicated that she did not believe her FoodShare for October forward had been correctly calculated. This was treated as a new hearing request with a hearing to be scheduled later.

CONCLUSIONS OF LAW

That the agency correctly determined that Petitioner was not eligible for FoodShare in September 2013.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of December, 2013

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 18, 2013.

Racine County Department of Human Services
Division of Health Care Access and Accountability